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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,682	10/27/2003	Joseph Wittmer	ATM-2360	2063
217	7590	09/21/2006	EXAMINER	
FISHER, CHRISTEN & SABOL 1725 K STREET, N.W. SUITE 1108 WASHINGTON, DC 20006			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,682

Applicant(s)

WITTEMER, JOSEPH

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-9, 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 10, 11, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3728

1. Applicant's election of species I, claims 1-3, 5, 10-11 and 14-15 in the reply filed on July 10, 2006 is acknowledged. Claims 6-7 and 12-13, directed to non-elected species, have been withdrawn from consideration. Claims 8 and 9, amended to depend solely on non-elected claim 7, are also withdrawn. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The proposed drawings were received on July 10, 2006. These proposed drawings are approved. New formal drawings of Figures 11-15 will necessary.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5, 10-11 and 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 9, "remaining portion" should be preceded by an article to be grammatical. See also claim 5, line 8 for the same indefiniteness.

In claim 2, line 4, "a cover film" is indefinite, as the same cover film has been antecedently defined in claim 1, lines 6 and 9, and should be so indicated.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3728

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muir Jr. et al. (6,767,604) in view of Brunner et al. (6,041,929). Muir Jr. et al. disclose a packaging bag (Figures 1 and 4) with a front wall and a rear wall in which the front wall and rear wall are bonded together along a peripheral edge (at the shown top and bottom edges 22 and 24), at least one of the front wall and rear wall bonded to a cover film (12) which is printed on one or both sides, substantially the entire area of the cover film being bonded to and peelable from the at least one of the front wall and rear wall, and a remaining portion of the cover film (38) is permanently bonded to the packaging film in an edge area. Brunner et al. disclose at least one of the front wall and rear wall of a packaging bag printed on the outside of the bag (at 14). To modify Muir Jr. et al. employing printing on the walls of the bag would have been obvious in view of Brunner et al. in order to identify the contents, as by suggested by Brunner et al..

As to claims 2 and 10, Muir Jr. et al. disclose the front wall of a first packaging film (21) and the rear wall of a second packaging film (23), at least one of the packaging films bonded to the cover film (12).

As to claims 3 and 11, Muir Jr. et al. also disclose the front wall and the rear wall being of the same packaging film (see column 3, lines 46-61).

7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 5 in the previous paragraph immediately above, and further in view of Scott et al. (6,113,271). Scott et al. disclose employing permanent adhesive (see column 4, lines 3-11). To modify the permanent bond of Muir Jr. et al. employing permanent adhesive would have been an obvious substitution of equivalent permanent bond-defining means, given the disclosures of Muir Jr. et al. and Scott et al..

As to claim 15, since the prior art combination discloses printing in general, and applicant discloses register printing to be known in the field, to employ the commonly known register printing process would have been obvious to one of ordinary skill in the art.

8. Claims 1, 5 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. (6,113,271) in view of Brunner et al. (6,041,929). Scott et al. disclose a packaging bag (Figure 1) with a front wall and a rear wall in which the front wall and rear wall are bonded together along a peripheral edge (at the shown lateral edges), at least one of the front wall and rear wall bonded to a cover film (18) which is printed on one or both sides, substantially the entire area of the cover film being bonded to and peelable from at least one of the front wall and rear wall, and a remaining portion (20) of the cover film is permanently bonded to the packaging film in an edge area. Brunner et al. disclose at least one of the front wall and rear wall of a packaging bag printed on the outside of the bag (at 14). To modify Scott Jr. et al.

Art Unit: 3728

employing printing on the walls of the bag would have been obvious in view of Brunner et al. in order to identify the contents, as by suggested by Brunner et al..

As to claim 14, Scott et al. disclose employing permanent adhesive (see column 4, lines 3-11).

As to claim 15, since the prior art combination discloses printing in general, and applicant discloses register printing to be known in the field, to employ the commonly known register printing process would have been obvious to one of ordinary skill in the art and would fail to define any new and unexpected result by its employment.

9. Claims 1-2, 5, 10 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Counts et al. (5,341,930) in view of Scott et al.. Counts et al. disclose a packaging bag (Figures 1 and 2) with a front wall (14) and a rear wall (12) in which the front wall and rear wall are bonded together along a peripheral edge (column 6, lines 39-47), at least one of the front wall and rear wall bonded to a cover film (16) which is printed on one or both sides, substantially the entire area of the cover film being bonded to and peelable from the at least one of the front wall and rear wall, and at least one of the front wall and rear wall of the packaging bag printed on the outside of the bag (at 20). Scott et al. disclose a remaining portion (20) of a cover film permanently bonded to a packaging bag in an edge area. To modify the packaging bag of Counts et al. employing the permanent seal teaching of Scott et al. would have been obvious in order to permanently retain the cover film with the bag, as suggested by Scott et al..

As to claim 2, Counts et al. disclose a first packaging film (14), a second packaging film (12) and a cover film (16).

As to claim 10, Counts et al. disclose bonding of the cover film in an edge area.

As to claim 14, Scott et al. further disclose employing permanent adhesive (see column 4, lines 3-11).

As to claim 15, since the prior art combination discloses printing in general, and applicant discloses register printing to be known in the field, to employ the commonly known register printing process would have been obvious to one of ordinary skill in the art and would fail to define any new and unexpected result by its employment.

10. Applicant's arguments with respect to claims 1-3, 5, 10-11 and 14-15 have been considered but are moot in view of the new ground(s) of rejection.

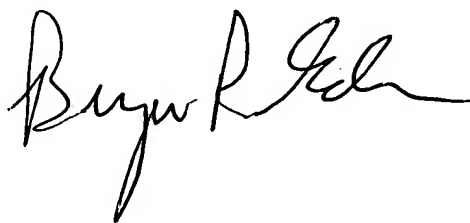
11. This action is made non-final in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Bryon P. Gehman', written in a cursive style.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG